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Connecticut State Medical Society Testimony
Senate Bill 1072 An Act Concerning Letters of Protection
Presented to the Judiciary Committee
March 4, 2011

Senator Coleman, Representative Fox and members of the Judiciary Committee, my name is Dr. Michael Connair, an orthopedic surgeon from New Haven and Councilor for the Connecticut State Medical Society (CSMS). On behalf of our more than 7,000 physicians and physician-in-training members, thank you for the opportunity to present this testimony to you today on **Senate Bill 1072 An Act Concerning Letters of Protection**

There are several benefits to establishing guidelines for letters of protection (LOP) and balance billing procedures in medical liability cases. First, physicians who do not participate insurance plans such as Medicaid may be willing to see a patient under a LOP with the understanding that the entire bill may be paid in the future after a legal settlement. Second, insurers (including state plans) will be repaid if appropriate by settlement money. Finally, patients who are uninsured will find more physicians willing to see them for some liability cases if the rules of payment by attorneys from settlement money are clearly defined and fair.

The proposed bill, if modified, presents an opportunity to address LOP contractual issues among physicians, attorneys and patients. For instance, a contract of understanding should exist between the physicians *in addition* to the attorney. Physicians, understandably, should forgo collection proceedings until the case settles or finalizes. The LOP granted by one attorney should obligate successor attorneys should a patient change legal counsel.

With regards to proper billing, it must be the responsibility of the attorney to notify insurers that have paid any portion of the bill that they may be entitled to recoup money through subrogation against a settlement. For patients with insurance coverage, physicians should be able to bill insurers for reimbursement prior to settlement. However, contractually negotiated discounts by an insurer should not be deemed payment in full if a legal settlement is the ultimate payor.

CSMS offers its resources to assist in developing appropriate legislation that defines the benefits and responsibilities of patients, physicians, and attorneys who utilize letters of protection. I personally provide a significant amount of medical care to patients under an LOP. Without an LOP these patients would otherwise have difficulty obtaining medical care.

Thank you for the opportunity to present these comments to you today.